

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105**

**File No. RH03028690
Notice File No. Z05-0701-01
Date: February 22, 2006**

**Subject: Proposed Amendments to the Prelicensing and Continuing
Education Curriculum Regulations**

FINAL STATEMENT OF REASONS

UPDATE OF INFORMATIVE DIGEST AND INITIAL STATEMENT OF REASONS

On December 15, 2005, the Department of Insurance (“Department”) made available for public inspection certain changes to the regulation text as initially proposed. The Commissioner made changes to the proposed amendments to Sections 2186.1, 2188.2, 2188.6 and 2188.8, and added new Sections 2188.23, 2188.24, and 2188.83. The changes deleted the language in Sections 2188.2(a), (b) and (h) and 2188.8(b)(4), which incorporated applicable forms by reference. New Sections 2188.23, 2188.24, and 2188.83 were added to include the applicable forms (Forms 446-3, 446-12 and 446-13) in their entirety. These changes were made on the Commissioner’s own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Changes to Section 2186.1 were made to include a definition of “interactive course” and to clarify the definition of “self-directed course”. Finally, Section 2188.6(f) was changed to apply to certain interactive courses only.

The changes were sufficiently related to the rulemaking as originally noticed such that a reasonable member of the directly affected public could have determined from the original notice that these changes could have resulted. Each substantive change is listed below, in the same order as those changes appear in the regulation.

The text of the proposed regulation has been renumbered for ease of reference. Each of these changes is nonsubstantial, in that they do not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text (Cal. Code Regs., tit. 1, section 40.)

Section 2186.1. Definitions.

It has been reasonably necessary to add new subsection (h)(2). A definition of an “interactive course” is added thereby broadening the definition of “course”. The new language is necessary to achieve the Department’s ongoing objective to improve service, accessibility and convenience

to the public, including agents, brokers, and education providers using technological mediums. As a result, agents and brokers will now have one additional way of satisfying continuing education requirements. Similarly, education providers will have one more mode of offering continuing education courses.

All subsequent subsections, (h)(3) and (h)(4), are renumbered for consistency to reflect the addition of the new definition in (h)(2).

Subsection (h)(3) is amended to clarify the definition of “self-directed course”. It has been reasonably necessary to insert the words “not an interactive course” as clarification in light of the language in new subsection (h)(2). It has been reasonably necessary to delete the phrase “computer disk form” and insert “compact diskette (CD), digital versatile disc (DVD)”. This change is necessary to maintain consistency with the terminology used in new subsection (h)(2). Additionally, since these regulations were initially promulgated, the technology that could be considered to fall under the definition of “computer disk form” has expanded.

Section 2188.2. Course Approval.

Paragraph (a) is amended to change the revision date of Form 446-3 from “5/04” to “12/05”. Further, the language “incorporated by reference herein” is deleted and language stating “as set forth in Section 2188.23” is inserted. These changes are necessary and are made on the Commissioner’s own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Therefore, Form 446-3 is now included in the text of the regulations at Section 2188.23.

Paragraph (b) is amended to change the revision date of Form 446-12 from “11/01” to “11/05”. Further, the language “incorporated by reference herein” is deleted and language stating “as set forth in Section 2188.24” is inserted. These changes are necessary and are made on the Commissioner’s own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Therefore, Form 446-12 is now included in the text of the regulations at Section 2188.24.

Paragraph (h) is amended to change the revision date of Form 446-12 from “11/01” to “11/05”. Further, the language “incorporated by reference herein” is deleted and language stating “as set forth in Section 2188.24” is inserted. These changes are necessary and are made on the Commissioner’s own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Therefore, Form 446-12 is now included in the text of the regulations at Section 2188.24.

Section 2188.23. Prelicensing/Continuing Education Program Course Approval Application Form 446-3.

It has been reasonably necessary to add Section 2188.23 to provide the text of Form 446-23 that is required by Section 2188.2(a). These changes were necessary and were made on the Commissioner's own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Authority and reference are added in compliance with California Government Code Section 11349.1.

Section 2188.24. Class Presentation Schedule Form 446-12.

It has been reasonably necessary to add Section 2188.24 to provide the text of Form 446-12 that is required by Section 2188.2(b) and Section 2188.2(h). These changes were necessary and were made on the Commissioner's own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Authority and reference are added in compliance with California Government Code Section 11349.1.

Section 2188.6. Successful Completion of Continuing Education Courses.

It has been reasonably necessary to insert the word "[i]nteractive" before "courses" to maintain consistency with new Section 2186.1(h)(2) which defines "interactive course." Section 2188.6 (f) currently begins "[c]ourses of video only or audio only programs, conducted in supervised environments involving attendance monitoring..." It follows that such video courses would then be considered contact (interactive) courses.

Section 2188.8. Certificates of Completion.

Subsection (b)(4) is amended to change the revision date of Form 446-13 from "8/01" to "11/05". Further, the language "incorporated by reference herein" is deleted and language stating "as set forth in Section 2188.83" is inserted. These changes are necessary and are made on the Commissioner's own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Therefore, Form 446-13 is now included in the text of the regulations at Section 2188.84.

Section 2188.83. Provider Roster Form 446-13.

It has been reasonably necessary to add Section 2188.83 to provide the text of Form 446-13 that is required by Section 2188.8(b)(4). These changes were necessary and were made on the Commissioner's own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Authority and reference are added in compliance with California Government Code Section 11349.1.

UPDATE OF MATERIAL RELIED UPON

No material other than that presented in the initial statement of reasons has been relied upon by

the Department of Insurance.

MANDATE UPON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department has made a determination that adoption, amendment or repeal of the regulation does not impose a mandate on local agencies or school districts. The regulation has nothing to do with local agencies or school districts; it neither requires nor prohibits action on their part.

ALTERNATIVES

The Department of Insurance has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective and less burdensome to affected persons than the proposed regulation. While the Department of Insurance received only two comments from the public during the public comment period, neither of the comments presented a reasonable alternative to the regulation despite the express invitation that was extended in the Notice of Proposed Action to comment on alternatives to the regulations.

SUMMARY OF AND RESPONSE TO PUBLIC COMMENTS

During the 45-day public comment period, which ended on August 31, 2005, only one written comment was received.

On August 31, 2005, a public hearing was held. Only one individual attended the public hearing and he very briefly testified, offering general comments, regarding the proposed regulations.

No comments were received during the 15-day comment period for the Notice of Availability of Changed Text. Said 15-day comment period ended on December 30, 2005.

A verbatim recital of each written and oral comment received during the public comment period and the response to each is recited below.

Comment No. 1:

Commentator: Mr. Adam Mersereau, Sr. Vice-President, Primerica Life Insurance Company

Date of Comment: August 30, 2005

Type of Comment: Written comment submitted via hand-delivery on August 31, 2005 by Mr. Robbin McGregor, Primerica Life Insurance Company. An emailed copy of the letter followed from Mr. Mersereau.

Verbatim Comment (All mistakes in text appear in original):

Please accept this is written comment to California Proposed Article 6.5. Thank you for allowing us the opportunity to respond.

Primerica Life supports the regulations as proposed and applauds the Department's efforts toward Uniform Licensing Standards.

In keeping with those standards, we request that consideration also be given to approval of combination courses for prelicensing credit. We agree that, in this day of advanced technology and increased use of computers, now is the opportunity to broaden course formats and definitions in existing educational requirements in general.

CDI Response:

The Department considered Mr. Mersereau's written comments and did not incorporate his proposed changes into the regulations. Extending the subject regulations to include approval of combination courses for prelicensing credit is not necessary. Prelicensing courses have always been in a classroom setting and self-study classes have never been allowed. A new person entering the industry or a first-time student would be better served in a classroom setting vs. a combination course. Additionally, Mr. Mersereau raised these identical comments at the time of the pre-notice workshop for these regulations. At that time, his comments were considered and rejected.

Comment No. 2:

Commentator: Mr. Robbin McGregor, Primerica Life Insurance Company

Date of Comment: August 31, 2005

Type of Comment: Oral (Transcript of Proceedings, August 31, 2005, pages 4-5)

Verbatim Comment (All mistakes in text appear in original:

My name is Robbin McGregor. I'm with Primerica; I'm also on the DOI curriculum board. And I gave my comments in writing. Not much more to say. No, I think everything is great. And of course, I was on the board, and kind of like really know what's going on, so I'm not in a fog right now. So everything is great.

CDI Response:

The written comments that Mr. McGregor refers to are the written comments of Mr. Adam Mersereau (discussed above), which Mr. McGregor hand delivered to the public hearing. The Department considered Mr. McGregor's comments and determined that no changes were necessary.